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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,488	03/03/2006	Barry Douglas Armour	0074-516912	8707

110 7590 03/31/2008

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1601 MARKET STREET
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EXAMINER	
LOWE, MICHAEL S	

ART UNIT	PAPER NUMBER
3652	

MAIL DATE	DELIVERY MODE
03/31/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/531,488	ARMOUR ET AL.	
	Examiner	Art Unit	
	Michael Scott Lowe	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 January 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 April 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11,15,20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Cook (US 2,446,791).

Re claims 1,20,21, Cook teaches a truck including: a chassis (generally 10) supporting a cab 14; and a deck (generally 19) which is supported at least partly by a rearmost axle 28 and wheels 29 by a suspension arrangement (generally 40,40',40"45,48), with a forward part (generally 48) of the suspension arrangement operatively connected to the chassis and a rear part (generally 40") of the suspension arrangement operatively connected to the deck (generally 19) or a deck support frame (generally 19), wherein the deck is tiltable relative to the chassis about a pivot axis (generally 24,52,58,etc.) located in front of the rearmost axle of the truck and arranged such that as the deck tilts rearwardly, the chassis tilts forwardly (to some extent) and said forward part of the suspension arrangement (generally 40,40',40",45,48) moves upwardly relative to the deck, thereby, lowering the deck towards the rearmost axle.

Re claim 2, Cook teaches chassis mates forwardly of the rearmost axle.

Re claim 3, Cook teaches the deck supported by a deck support frame pivotally connected to the chassis at the pivot axis.

Re claim 4, Cook teaches pivotally connected to the chassis at the pivot axis.

Re claim 5, Cook teaches the chassis includes a pair of transversely extending arms (generally 16) which are pivotally connected to the deck or deck support frame to provide the pivoting connection between the deck and the chassis.

Re claim 6, Cook teaches the outwardly extending arms (generally 16) are part of a chassis subframe member which forms a rearward part of the chassis.

Re claim 7, Cook teaches said pivot axis (generally 52,58,etc.) positioned forwardly of said forward part of the suspension arrangement.

Re claim 8, Cook teaches the suspension arrangement comprises leaf spring suspension.

Re claims 9,22, Cook teaches the leaf spring suspension includes a pair of spaced apart leaf springs (generally 40), with the rear ends of the leaf springs operatively connected to the deck or deck support frame (generally 19), and the front ends of the leaf springs operatively connected to the chassis (generally 10,16), so that as the deck tilts the front ends of the leaf springs move upwardly (at least to some extent) relative to the deck, thereby lowering the deck towards the axle.

Re claim 10, Cook teaches the chassis includes a pair of spring connectors (generally 16,17,24,40',40'',48) for attachment to the front ends of respective leaf springs.

Re claim 11, Cook teaches the spring connectors are carried by a chassis subframe member (generally 16,17) which forms a rearward part of the chassis.

Re claim 15, Cook teaches an engine (not numbered) supported by the chassis, a driveshaft (generally 20) to transmit motive power from the engine and which extends rearwardly from the engine, and a differential (generally 26) to transmit motion from the driveshaft to the wheels carried by the rearmost axle, wherein the driveshaft includes a pivot (generally 23) to accommodate changes in angle between the driveshaft and differential as the deck is tilted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 12,13,14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (US 2,446,791) in view of Mullican (US 5,887,880).

Re claims 12,14, Cook does not teach an opening or cover in the deck for the springs or their connectors to pass thru. Mullican teaches a suspension system wherein the deck includes a pair of apertures, shaped recesses or moveable covers (for suspension or wheels, see figures) which enable the front ends of the suspension (leaf springs and/or the spring connectors) to extend above a lower part of the deck when the deck is tilted in order to reduce the tilt angle when loading/unloading. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cook by the general teaching of Mullican to have a suspension system

wherein the deck includes a pair of apertures, shaped recesses or moveable covers which enable the front ends of the leaf springs and/or the spring connectors to extend above a lower part of the deck when the deck is tilted in order to reduce the tilt angle when loading/unloading.

Re claim 13, Cook teaches the suspension arrangement includes a pair of spaced apart leaf springs, with the front ends of the leaf springs operatively connected to the chassis, but does not teach the rear ends of the leaf springs operatively connected to the deck or deck support frame via respective air bags configured to enable air to be expelled as the deck is tilted, thereby further lowering the deck towards the rearmost axle. Mullican teaches a suspension system wherein an end of the suspension is operatively connected to the deck or deck support (generally 36, etc.) frame via respective air bags (generally 46) configured to enable air to be expelled as the deck is tilted, thereby further lowering the deck towards the rearmost axle in order to assist in loading/unloading. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cook by the general teaching of Mullican to have a suspension system wherein an end of the suspension is operatively connected to the deck or deck support frame via respective air bags configured to enable air to be expelled as the deck is tilted, thereby further lowering the deck towards the rearmost axle in order to assist in loading/unloading.

Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (US 2,446,791) in view of Mentele (US 6,461,096).

Re claim 16, Cook does not teach a ramp but Mentele teaches a ramp at or towards the rear end of the deck and which is moveable from a storage position to a loading/unloading position in order to help with safety and uneven terrain (column 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cook by the teaching of Mentele to have a ramp at or towards the rear end of the deck and which is moveable from a storage position to a loading/unloading position in order to help with safety and uneven terrain.

Re claim 17, Cook as already modified by Mentele in claim 16 teaches the ramp configured to automatically move to the loading/unloading position as the deck it tilted, and to automatically move to the storage position as the deck is retraced from a tilted position.

Re claim 18, Cook as already modified by Mentele in claim 16 teaches the ramp pivotally connected to the deck or deck support frame.

Re claim 19, Cook as already modified by Mentele in claim 16 teaches the ramp foldable across its width, and as configured to automatically fold in the storage position and unfold in the loading/unloading position.

Conclusion

Applicant's arguments filed 1/10/08 have been fully considered but they are not persuasive.

Applicant argued that as the deck tilted rearward relative to the chassis, that the chassis did not tilt in any way. However, regardless of what else may be going on in the reference, if the deck is tilting rearwardly relative to the chassis then it must also be the

case that the chassis is tilting forwardly relative to the deck. Although it is believed the chassis tilts forwardly in other ways and that the chassis arguments by the applicant are not what the reference is saying (in that the rotations limited in Cook column 2 are local relative torques of the axle housing and propeller shaft, not that there is no rotation at all as argued by applicant), the chassis arguments are moot since the claim limitations are met as mentioned above.

Applicant argued in the Cook reference that as the deck tilts rearwardly the forward part of the suspension arrangement does not move up because item 48 cannot rotate relative item 28 and that item 40' cannot meet this since it moves with the deck. However, the item 40' is moved higher than the center of the deck, certainly moves upward relative the rear and center of rotation of the deck and thus meets the limitation as broadly recited in the current claims. Regarding the arguments against item 48 moving upwardly relative the deck, even if for sake of argument 48 stays in place, when the deck tilts downward (rearward) then in relative terms the item 48 does move upwardly as claimed. Furthermore, other items such as item 58 are noted in the rejection as a pivot axis and would also be considered a forward part that moves upwardly relative the deck as the deck tilts.

Applicant's remaining arguments are based on the above mention arguments and the responses are likewise already addressed above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Scott Lowe whose telephone number is (571)272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Saúl J. Rodríguez/
Supervisory Patent Examiner, Art Unit 3652

/M. S. L./
Examiner, Art Unit 3652